## Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NICK MAKREAS,

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Plaintiff,

v.

FIRST NATIONAL BANK OF NORTHERN CALIFORNIA, et al.,

Defendants.

Case No. 11-cv-02234-JST

ORDER REGARDING THE **ADMISSIBILITY OF CERTAIN EXHIBITS** 

At the pretrial conference conducted on September 4, 2013, the Court took under submission the admissibility of certain exhibits. The Court now rules as follows concerning those exhibits:

- 1. The Court will reserve ruling on **Exhibits 78 through 80**. The Court lacks sufficient information regarding the relevance of these documents, and whether they were ever provided to the Defendants, to determine their admissibility now.
- 2. The Court has considered the Defendant's objections to the admissibility of specific interrogatory responses contained in **Exhibit 81**, as those objections are set forth in the parties' Joint Statement Regarding Use of Discovery Responses At Trial, ECF No. 177, and now rules as follows on the objections.
- a. Response to Interrogatory Number 4 - Defendant's relevance objection is overruled and the response may be admitted.
- Response to Interrogatory Number 9 Defendant's relevance objection is b. sustained and the response is not admissible.
- Response to Interrogatory Number 10 Defendant's relevance objection is sustained and the response is not admissible.
  - Response to Interrogatory Number 11 Defendant's relevance objection is d.

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1	sustained and the response is not admissible.		
2	e. Response to Interrogatory Number 12 - Defendant's relevance objection is		
3	overruled and the response may be admitted.		
4	f. Response to Interrogatory Number 13 - Defendant's relevance objection is		
5	sustained and the response is not admissible.		
6	g. Response to Interrogatory Number 14 - Defendant's relevance objection is		
7	overruled and the response may be admitted.		
8	h. Response to Interrogatory Number 15 - Defendant's relevance objection is		
9	overruled and the response may be admitted.		
10	i. Response to Interrogatory Number 16 - Defendant's relevance objection is		
11	overruled and the response may be admitted.		
12	j. Response to Interrogatory Number 17 - Defendant's relevance objection is		
13	sustained and the response is not admissible.		
14	k. Response to Interrogatory Number 18 - Defendant's relevance objection is		
15	sustained and the response is not admissible.		
16	1. Response to Interrogatory Number 19 - Defendant's relevance objection is		
17	sustained and the response is not admissible.		
18	m. Response to Interrogatory Number 20 - Defendant's relevance objection is		
19	sustained and the response is not admissible.		
20	n. Response to Interrogatory Number 21 - Defendant's relevance objection is		
21	sustained and the response is not admissible.		
22	o. None of the objections contained in any interrogatory response will be read		
23	to the jury.		
24	3. <b>Exhibits 128 through 130</b> are admissible if Plaintiff introduces testimony from		
	which the trier of fact can conclude that the documents were received by the Defendants.		
25	4. <b>Exhibit 219</b> is a hearsay document and is not admissible.		
26	5. <b>Exhibits 281 through 285</b> (there appears not to be an Exhibit 286) are admissible		
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if, and only if, the following two conditions are met:

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	a.	The plaintiff testifies, or other evidence is admitted, that an item of
personal p	roperty tha	t was identical, or substantially similar to, the item depicted in the exhibit
was conve	erted by the	Defendants; and

b. A sponsoring witness with personal knowledge of the contents of the Home Depot website authenticates the exhibit by testifying that (a) the witness accessed the Home Depot website on a particular date; (b) the exhibit is a true and correct copy of images from the Home Depot website as seen on that date. See, e.g., Perfect 10, Inc. v. Cybernet Ventures, Inc., 213 F. Supp. 2d 1146, 1154 (C.D. Cal. 2002).

## IT IS SO ORDERED.

Dated: December 6, 2013

